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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,269	06/13/2001	Lian Soon Tan	56139USA5A.002	5381

32692 7590 06/29/2004

3M INNOVATIVE PROPERTIES COMPANY  
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EXAMINER

FOELAK, MORTON

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/880,269	TAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Morton Foelak	1711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 17-22 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-17 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION**

**1. Applicant's election with traverse of the claims of Group, namely claims 1-16 in the reply filed on 6/24/04 is acknowledged. The traversal is on the ground(s) that the same search for claims 1-16 would essentially be the same as for 17-22. This is not found persuasive because the product claims of Group would have a much wider scope as the claims of the process. For example said product could be made by a different process as claimed such as a batch process utilizing a solvent polymerization a spray process in contradistinction to the claimed process which would widen the search for the product claims.**

**The requirement is still deemed proper and is therefore made FINAL.**

***Claim Rejections - 35 USC § 102***

**2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:**

**A person shall be entitled to a patent unless -**

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**(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.**

- 3. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by anyone of von Bonin et al. Will, Lissant, all of record, or Dyer et al, cited by the examiner.**
- 4. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable**
- 5. All the cited references show making an HIPE non-cross-linked foamed composition.**
- 6. While the von Bonin et al and Will patents produce water in oil or reversed oil in water emulsions to produce their foamed compositions they can use polymerizable monoethylenically unsaturated monomers alone in their process and it would appear that they do not have to use their disclosed polyfunctional ethylenically unsaturated cross-linking monomers in order to achieve making their foamed products. Note the working examples of the references.**
- 7. Lissant discloses a process of making a water in oil polymer from a polymerizable monoethylenically unsaturated monomer. And Dyer et al discloses making a water in oil foamed polymer from a**

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**monoethylenically unsaturated polymer. However since the claimed process does not contain a drying step to remove the resultant water created within the pores of the polymer, the claims read on the uncured polymers produced in their processes. Note col. 20 lines 10-20 of Dyer et al.**

**8. Since the monomers employed in the instant claims read on the monomers employed in the references it would appear that claimed results would inherently accrue in the processes of the references.**

**Any inquiry concerning this communication or earlier communications from the examiner should be directed to Morton Foelak whose telephone number is (571) 272-1071. The examiner can normally be reached on Monday thru Friday.**

**If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.**

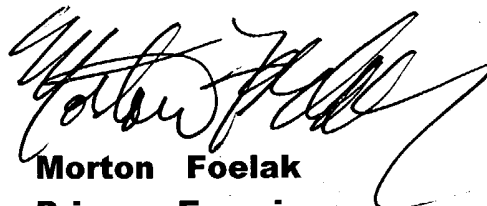
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**For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).**

**M.F.**

**June 26, 2004**

A handwritten signature in black ink, appearing to read 'Morton Foelak', is written over the printed name and title.

**Morton Foelak  
Primary Examiner  
Art Unit 1711**